City of Lafayette
Public Meeting Minutes
City Council Special Meeting

MINUTES

Lafayette Community Center -- Manzanita Room **January 28, 2008**
500 St. Mary's Road, Lafayette, California **5:30 p.m.**

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 5:30 p.m.

2. ROLL CALL

Present: City Council: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson and Federighi

Absent: Councilmember Anduri

Staff: Steven Falk, City Manager and Mala Subramanian, City Attorney

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Tatzin/Andersson) to adopt the agenda. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

4. PUBLIC COMMENTS – None

5. CLOSED SESSION

A. **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
(Government Code section 54956.9(a).)
David R. Bruzzone, et al. v. City of Lafayette, et al.
Contra Costa County Superior Court Case No. C02 02145
Recommendation: Discuss and direct staff.

B. **Conference with Legal Counsel – Anticipated Litigation**
Government Code section 54956.9 (b) – Significant exposure to litigation (1 potential case)
Recommendation: Discuss and direct staff.

C. **Conference with Legal Counsel – Anticipated Litigation**
Govern Code section 54956.9 (c) – Initiation of Litigation (1 potential case)
Recommendation: Discuss and direct staff.

6. ADJOURNMENT

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the meeting at 5:55 p.m. to the regular City Council meeting. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

APPROVED:

_____
Mike Anderson, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk

City of Lafayette
Public Meeting Minutes
City Council Special Joint Meeting

MINUTES

Lafayette Community Center - Manzanita Room **January 28, 2008**
500 St. Mary's Road, Lafayette, California **6:00 p.m.**

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 6:00 p.m.

2. ROLL CALL

Present: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson and Federighi

Also Present: Planning Commission: Vice Chair Mark Mitchell, Commissioners Jeanne Ateljevich, Will Lovitt, and Pat Curtin-Tinley

Design Review Commission: Commissioner Bill Marquand

Absent: Councilmember Anduri

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Niroop Srivatsa, Planning & Building Services Manager; Greg Wolff, Senior Planner; Sarah Allen, Planning Intern; Michael Cass, Planning Technician; Lindy Coburn, Associate Planner; Christine Sinnette, Senior Planner; Kathy Foster, Administrative Assistant; Mike Hubbard, Police Chief; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk; Minute Taker Lisa Harper

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Tatzin/Federighi) to adopt the agenda. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

4. PUBLIC COMMENTS – None

5. STAFF REPORTS

A. Niroop Srivatsa, Planning & Building Services Manager
Planning Division Work Plan for 2008
Recommendation: Approve the work plan for 2008. Authorize the transfer of $30,000 to Account 11-410-861 to pay for the upgrading of the drainage impact and walkway fees.

Planning & Building Services Manager Niroop Srivatsa introduced Planning Division staff members Sarah Allen, Planning Intern; Michael Cass, Planning Technician; Lindy Coburn, Associate Planner; Christine Sinnette, Senior Planner, Kathy Foster, Administrative Assistant; and Greg Wolff, Senior Planner. She said 2007 has been a busy year and said Chair Mark Mitchell, would provide a brief report regarding the House Size Committee.

Chair Mitchell said the committee only met a couple of times over the last month, they have also met with staff and received some public input, are continuing to work on the ordinance, they intend to conduct forums and workshops with the public, and based on input received, they are also exploring a non-ordinance approach by updating the City's current ordinances. Mayor Anderson confirmed that the City Attorney assisted in review of the form of the ordinance who assured the committee their approach was within the law.

Councilmember Andersson questioned if there were suggestions about which particular neighborhood would be brought into the process and Vice Chair Mitchell said there are two major approaches; 1) neighborhoods; and 2) those that did not fall into neighborhoods. For those that fell into neighborhoods, their idea was to solicit input in the form of doing presentations. He said the committee was not looking too favorably on allowing each neighborhood to make up its own rules. He said it seemed chaotic to do this as there were more than a dozen neighborhoods. Commissioner Ateljevich said they recognized that some neighborhoods also tend to bleed into each other with no distinction as to where they begin and end. Chair Mitchell said another reason identified was that neighborhoods change over time and they would almost have to be continually polled.

Councilmember Federighi asked if Sweet Drive concerns would be addressed and she questioned how neighborhoods would be accommodated if they felt recommended something other than what the ordinance allows for be done. Commissioner Ateljevich said the committee received one neighborhood complaint from a resident on Leland Drive, the house was tested with improvements made and they found the owner could have built what he wanted. They also wanted to make clear that second units are not counted in the calculations. And thus far, they have not heard complaints that could be validated under the ordinance.

Chair Mitchell said they heard of and have received some complaints, but no one has ever complained about the specifics of the ordinance. Complaints focused on the idea there would be too much staff time and philosophical complaints. But, when people look at the ordinance, their comments had more to do with their belief that they would not be able to build their house, and he thought some of the fears might be unfounded.

Senior Planner Greg Wolff said all three bodies at the joint session heard the initial concept of neighborhoods versus non-neighborhoods. Based on comments received and concerns about staff time to administer the new rules, staff has been charged with coming up with an alternative which would enhance the current ordinance and findings, elaborate on compatibility and make this clearer. Staff will then hold meetings with homeowner associations to float both of those approaches, receive feedback and determine support for one or the other.

Regarding the work of the Senior Housing Task Force, Vice Chair Lovitt referred to the staff report which he thought did a good job of explaining the current status--that Eden is facing a shortfall of funding due to land prices. He noted the Conti lot was approximately one acre at $5 million, he confirmed the property must be appraised before Eden purchases it, and he thought it was a difficult property to appraise with a special purpose project on top of it. He said the price issue would be revisited later if an appraisal was needed for a specific price and was not sure what this does to the proposal for an application for a State HELP loan. They were currently in a "box" which has been created by an impasse with the main site, with a secondary site that may not be sufficient, and funding application deadlines.

Ms. Srivatsa said the project is agendized for the City Council, and Eden is negotiating with Mr. Conti and Mr. Lemos.

Senior Planner Christine Sinnette said the Eastern Deer Hill Road study area has been under review for a few years. Staff has been working on the City-initiated General Plan Amendments and zoning changes for 7 properties in the Eastern Deer Hill area and she briefly described them. The current project description is just for the 3 properties zoned APO; the 2 fronting on Pleasant Hill Road and a sliver of land owned by Caltrans. The proposal is to reclassify those 3 properties to either LR-10 or R-20. The project description also includes a possible zoning amendment for the other 4 properties.

Ms. Sinnette said when the Planning Commission began deliberations a few years ago, even though they knew a specific plan could not be prepared they felt more information was needed related to the regulatory and environmental aspects of the properties. Therefore, the City entered into a contract with a consultant to prepare an opportunities and constraints analysis. After this was prepared and reviewed by the Planning Commission, the development potential was questioned and a slope analysis was prepared by an engineering firm. The intent is to go back and look at hillside regulations because there is a slope density type configuration. Those studies have been completed and staff anticipates bringing the studies to the Planning Commission at their second meeting in February. Soon after, they will finalize the project description and staff will conduct environmental review.

Housing Element tasks include the inclusionary housing ordinance and in-lieu fee. Associate Planner Lindy Coburn said staff has been working with a couple of consultants; Diana Elrod & Associates and Keyser Marsten & Associates. During the year, Keyser Martin updated the fee schedule, they have held subcommittee meetings with the Council and Planning Commission, they are preparing to move forward with stakeholder meetings, and then will draft an ordinance and move forward with public hearings and completion in June 2008.

Regarding staff improving its customer service, tracking complaints, telephone calls, code enforcement issues and counter coverage, Senior Planner Greg Wolff said he believes residents in the City are technological savvy. He said staff empowers the public to find their own information and use staff time to help answer questions. He distributed a handout on the City's website which is located at the Planning Division counter. It provides diverse information, application forms, packets of instruction pages, timing, and what to expect from the planning process. Staff is also putting together "Tips for Success" and trying to make a person's experience as a one-stop process. He said included are example submittals, aerial photos, agendas, staff reports, and a new item is the City Calendar. He said the last page poses a question and staff developed a quick form called, Planning Project Checklist, which provides clear information on a particular question.

Planning Commissioner Will Lovitt said he finds the City's website among the easiest to navigate. He also referred a number of other people to it who were very pleased. Mr. Wolff thanked City Manager Steve Falk, Administrative Services Director Tracy Robinson, City Clerk Joanne Robbins, and Planning Technician Michael Cass for their work on the website and Mr. Lovitt thanked staff for separating staff reports as individual PDF files.

Ms. Srivatsa said 4 years ago the Council created the Applications Review Committee with the goal of triaging applications every two weeks, forwarding the less complicated ones to staff and/or the Zoning Administrator, the DRC and a few to the Planning Commission. She said it has been a very successful exercise, and said staff learned a lot from the two commissions. As a result, this year in the hillside development permit category, 87 out of the 149 hillside development applications were processed over the counter. She said this also minimizes the workloads of the DRC and Planning Commission.

Mayor Anderson questioned and confirmed Commissioner Ateljevich serves on the Applications Review Committee and the DRC's representation rotates. He thanked committee members for their work.

Chair Mitchell questioned and confirmed with staff that, given the number of applications going to ARC, no real surprises had been realized after the fact. Commissioner Ateljevich agreed and said staff also has the option of changing the application's review path. She said there is another process whereby a member of the DRC might assist staff (the Assisted Zoning Administrator process) for specialized items such as landscaping or architectural work.

Ms. Srivatsa referred to the 2008 work plan and task list and noted not all items would be completed. Mayor Anderson said it looks like fees are beginning to balance out expenditures, and Ms. Srivatsa agreed and said this was a Council-directed challenge made of staff a couple of years ago.

Councilmember Federighi referred to the Non-Housing Element on page 9, under Task 2, and confirmed sign ordinance amendments were completed relating to residential and not to the downtown. Ms. Srivatsa said once the Downtown Strategic Plan is completed, it will raise several other tasks that are not on this work plan, but a list for 2009 and beyond.

Ms. Srivatsa referred to the Downtown Strategic Plan as being the largest and most exciting task. Additionally, staff also will work on two General Plan updates; the Housing Element and the Growth Management Element. Staff will also adopt the Inclusionary Housing Ordinance, the Eastern Deer Hill Road General Plan Amendment and hopefully will have a site for Eden Housing to build a senior housing project. Staff is also spending time applying for grants which is well worth the time, stating Sarah Allen and Michael Cass as the City's grant experts. She said they applied for 3 grants this year and hope to do more in the coming year.

Regarding how the work plan impacts the budget, Ms. Srivatsa said there may be some requests for FY 2008/09. The one request staff is making of the Council tonight is to approve $30,000 to update and upgrade the walkways fees and the drainage impact fees. She said Seifel Consulting was hired to study this and they are recommending the City reformat the manner in which fees are collected.

Vice Mayor Tatzin questioned the amount the City collects annually with the two fees and Ms. Srivatsa said she was not sure, but it was very little. She said drainage impact fees are 10 cents per square foot for any increase in impervious area on a piece of property. The walkways fee is $50 per unit.

Vice Mayor Tatzin said he would like to understand the correlation between how much is going to be raised at $30,000 to change the fees, and Ms. Srivatsa said she would discuss this with the consultant and could return with the information. Mayor Anderson agreed the information would be helpful.

Mayor Anderson said there are indications additional costs will be needed in FY 2008/09 and the funding source was often the RDA. There is a lot of pressure on RDA with the Downtown Specific Plan and Eden Housing and he suggested getting more refined numbers so the Council has a sense of what monies will be available at that time. Ms. Srivatsa said staff would have this information available for the goal-setting workshop.

Vice Mayor Tatzin questioned and confirmed with Ms. Srivatsa that the Growth Management Element was a Measure J requirement, but the City does not have to have level of service

standards for intersections but there are other standards needed. Mayor Anderson thanked staff for their presentation and noted the Council would like more information about the $30,000 request. Vice Mayor Tatzin confirmed with Ms. Srivatsa that it was staff's belief that the number of applications would most likely be reduced this year.

ACTION: It was M/S/C (Tatzin/Andersson) to approve the Planning Division work plan for 2008, authorize the transfer of $30,000 to Account 11-410-861 to pay for the upgrading of the drainage impact and walkway fees, subject to information being received from Seifel Consulting. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

6. ADJOURNMENT

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the meeting at 6:49 p.m. to the regular City Council meeting. Vote: 4-0-1 (Ayes: Anderson, Tatziin, Andersson, Federighi; Noes: None; Absent: Anduri).

APPROVED:

_____
Mike Anderson, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk

City of Lafayette
Public Meeting Minutes
City Council Regular Meeting

MINUTES

Lafayette Community Center - Manzanita Room **January 28, 2008**
500 St. Mary's Road, Lafayette, California **7:00 p.m.**

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 7:02 p.m.

2. ROLL CALL

Present: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson and Federighi

Absent: Councilmember Anduri

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Niroop Srivatsa, Planning & Building Services Manager; Christine Sinnette, Senior Planner; Greg Wolff, Senior Planner; John M. Luttropp, Associate Engineer; Mike Hubbard, Police Chief; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk; Minute Taker Lisa Harper

3. PLEDGE OF ALLEGIANCE – led by Mayor Anderson

4. ADOPTION OF AGENDA

Vice Mayor Tatzin said information was received with the suggestion to delete Item 9B from the agenda. Mayor Anderson voiced concern there may be public speakers, and City Manager Falk said it was at the Council's discretion and public comment could be taken at the time, as necessary.

ACTION: It was M/S/C (Tatzin/Andersson) to adopt the agenda, as amended by deleting Item 9B. Vote: 4-0-1 (Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

5. REPORT FROM CLOSED SESSION

A. **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
(Government Code section 54956.9(a).)
David R. Bruzzone, et al. v. City of Lafayette, et al.
Contra Costa County Superior Court Case No. C02 02145
Recommendation: Discuss and direct staff.

B. **Conference with Legal Counsel – Anticipated Litigation**
Government Code section 54956.9 (b) – Significant exposure to litigation (1 potential case)
Recommendation: Discuss and direct staff.

C. **Conference with Legal Counsel – Anticipated Litigation**
Govern Code section 54956.9 (c) – Initiation of Litigation (1 potential case)
Recommendation: Discuss and direct staff.

Mayor Anderson reported that in Closed Session, the City Council discussed Item 1; City vs. Bruzzone, and directed staff to extend the tolling agreement to March 10, 2008 by unanimous vote, with Councilmember Anduri absent.

6. PUBLIC COMMENTS

JAY LIFSON, Chamber of Commerce, reported on the Christmas Holiday Light Program, said the new lights cost $26,000 and the Chamber of Commerce donated $13,000. They approached property and business owners to raise additional funds and he presented checks in the amount of $7,500. Councilmembers thanked Mr. Lifson and property and business owners for their donations.

7. PRESENTATIONS

A. Mike Hubbard, Police Services Manager
Annual Police Report
Recommendation: Receive and file.

Police Chief Mike Hubbard gave a presentation on 2007 crime statistics, noting calls for service in 2007 showed Lafayette had 20,369 calls for service, which is down from 21,864. He included the last 6 years in his presentation showing trends, as well as de-bunking a couple of theories of law enforcement, cause and effect.

City Manager Falk said one statistic that comes out of is the number of calls for service per hour per officer, which revealed 2 calls per hour or 1,300 calls for service per officer per year.

Chief Hubbard reported there was 1 homicide in 2007 due to the Stanley Blvd traffic accident and the responsible driver was charged with vehicular homicide. There were 2 rapes in 2007 which is 2 more than in 2006. He said rapes are hard to pattern and confirmed with Councilmember Federighi that the figures were accusations investigated. Robberies went from 14 down to 8, or a 42% decrease, which he felt was significant. Domestic violence calls were up 29% at 26 in 2007. Thefts from residences do not capture people being victimized in their homes such as those thefts from garages. Therefore, Chief Hubbard said he combined all thefts occurring in homes--petty, grand theft or true burglaries, in order to identify how many people actually had their homes victimized.

He said in order to compare apples to apples, statistics were changed for all 6 years. Lafayette was down 6.5% with thefts from residences. Commercial burglaries are down 22.5% from 40 to 31. Thefts from vehicles went down 17.9%. Crimes of an arrest for possession for drugs went down from 43% to 33% and he noted that other crimes decreased as a result of lower drug possession.

Chief Hubbard commended Officer Adam Hernandez who was the person who broke the San Francisco Chronicle case where people were leaving a stop delivery notice and thieves were stealing lists of people on vacation. Officer Hernandez made 7 different arrests for 38 felony counts. He has also arrested numerous people for auto burglaries, and recently snared another large group for narcotics and stolen property.

Chief Hubbard said stolen vehicles were at the same level and noted this fluctuates very little. They recovered fewer vehicles in Lafayette, from 34 down to 25 and staff does not completely understand why people drop off vehicles in Lafayette, but most recoveries are due to officers seeing suspicious vehicles or receiving calls from citizens relating to unknown vehicles.

Arrests were down from 23% or 371 down to 283. He felt a lot of this had to do with deployment of officers. He wants officers to be visible in the community, in neighborhoods and where citizens want them to be. DUI's were down by 48% from 121 to 68. Chief Hubbard noted the department had a turnover of 7 officers in the last year, so there is some learning curve on how to conduct a DUI arrests and identify drunk drivers, as well as time needed for officers to attend training and schools.

Chief Hubbard said they actually had fewer accidents and fewer arrests, property damage accidents were down 30%, they had three more injury accidents than last year, but they are almost half of what they were two years ago. He presented a 16-year history which identified robberies, vehicle thefts, commercial burglaries, residential thefts, stolen vehicles, drugs, DUI, homicides and arrests.

Traffic citations are slightly up, parking citations have increased significantly, and the last page of the presentation shows a fiscal year comparison for most Contra Costa cities. Lafayette still has the distinction of the lowest number of officers per capita and also the lowest cost per resident in Contra Costa County, at $140.42. Mayor Anderson said it was interesting Danville has twice the population but was similar to Lafayette's statistics. Police Chief Hubbard agreed and said in 2007, they enjoyed some great cooperation and sharing of resources with Orinda and Moraga. They had the Slow Down Lamorinda campaign which was a success and they have continued a gathering of the three agencies in targeted problem areas. He said they also enjoyed a cooperative effort with the City's emergency plan, and the three cities are also looking at partnering with the Moraga-Orinda Fire Department for fuel for emergency services. If the partnership moves forward, the City would save over half of what they pay now, or about $30,000 per year.

Chief Hubbard said they also started a Police Services Officer Program which is going well. The County has provided a great deal of training and equipment at no cost to the City. They have trained Community Services Officer Eileen Fahy-Resavy in the crime lab and she is learning how to process crime scenes and conduct crime scene prevention. There are some things over the next year the department will need to purchase for her so she is fully outfitted in her vehicle.

The Department is also looking at a partnership with the Boy Scouts to work with their Explorer Program and get kids involved in community work with the Police Department. Lastly, the Chief reported that their K-9 car was destroyed. He volunteered to let the K-9

Officer have his Crown Victoria and he is now driving a Hybrid Toyota which gets 37 mpg for a fuel savings of $5,000.

Based on the statistics he brought forward, it seems like the past 16 years is status quo. They have not changed Police staffing and crime is relatively the same. His vision for the next year is looking for ways of improving the quality of life without sacrificing the integrity of their police work and problem-oriented policing.

Mayor Anderson asked if feedback from residents had been received regarding service, and Chief Hubbard said he did not receive response times from the County as of yet, but felt it was as good or better over the last year. He said they received 3 or 4 complaints regarding response times, but after researching them, the delay was due to officers being occupied on other details in all but one instance.

8. OLD BUSINESS

A. Mala Subramanian, City Attorney

Update on litigation concerning proposed access from Palo Alto Drive through a 0.12 acre parcel (APN 244-022-005) to a contiguous existing 9.25-acre vacant parcel (APN 244-300-001) owned by James and Nanna Busby. Recommendation: Receive and file.

Mayor Anderson said there was no staff report and asked for public comment.

PUBLIC COMMENTS:

SAMUEL HOLMES said he wrote a letter to the City Attorney, did not receive a reply and questioned what the Council would do regarding the situation. He said they need the City to be a witness, but if they refuse, they will have to take action to bring the City into the lawsuit, but prefers not doing this. He said they have offered free representation, spoke of the enforcement of a contract, and the City Attorney suggested there is a statute of limitations problem, where inaction by the City would have to be brought within 90 or 180 days after the determination of the conditions of approval. This would mean a developer could enter into a contract with the City, wait 180 days and then breach the contract, which he felt was absurd. He said they will have to persuade the court to enforce the agreement between the City and the developer. One other possibility is that if the Council would adopt a resolution reaffirming its position of 40 years ago insisting it has a contract this might put an end to the litigation.

JOHN WINTHER said he is accompanied by David Gold, they have had an option contract to acquire two parcels on Palo Alto Drive, when they entered into the contract, they did significant research, had multiple meetings with staff, met with former City Attorney Charles Williams and their findings revealed they had a clear legal access through Palo Also Drive and that at no time in the past had the Council or Planning Commission indicated they would preclude future development of the property or make it a permanent private park. Based on this, they went forward and initiated some community outreach. He said they have lived in Lafayette for many years, they have children in schools, are active in coaching and intend to live in Lafayette for a long time. They went through the process for several years which has been chronicled in a letter sent to the City, and after going through multiple meetings with citizen groups and meeting with staff, their direction was that they should come forward with an application for access through Palo Alto Drive.

Mr. Winther said they went forward with a submittal to the Planning Commission to help establish this was the appropriate point of access for the property. The Planning Commission indicated it was out of their jurisdiction because of the threat there would be a prescriptive easement on the property and the matter would best be solved in the courts. Therefore, they brought forth a quiet title action and believe it ultimately will be established that they have clear access across the property. He said they are hopeful that the Council will allow the private action to move forward and they look forward to bringing their hillside application forward when they are ready, and they will also deal with concerns about stability of the soils and other issues.

RICHARD HOLMES said the City Attorney initially made a mistake, and the unwillingness to acknowledge that the City made a mistake is the basis for the litigation. He asked the City Attorney to acknowledge that the 90 and 180 days did not apply and said the matter could be solved quickly and easily. Mr. Winther and Mr. Gold have made a very poor effort at securing access to this, stating Mr. Winther approached him 2 years ago, he told him the complete story, urged him to go to the 4 people on the Lane leading down from Quail Ridge and offer them each a Mercedes if they would give him permission to use that land and rebuild it after the construction was over. Instead, they persist in going on in the cheapest possible way. They approached one person and not four people, they made no specific offer, have done nothing that would give any confidence of success and they have done a deplorable job in making the most money for themselves.

KATHY MERCHANT said she has a different slant, is not involved in the legal action, said it is true that she and Mr. Winther and Mr. Gold met and they have different perspectives and see things differently. The understands there is an issue of 90 days, but Mr. Winther and Mr. Gold's main point has been that the final map does not show Section 7. She said Section 7 does exist and she has yet to see any documentation that it no longer exists. She voiced disappointment when developers publicly commit to conditions and then drop conditions. Mr. Busby signed the final map, his attorney states the condition exists and after 3 years, they say it does not exist, which she felt was not right.

KEITH THOMAS said his house adjoins the parcel in question, had met with Mr. Winther once when he came to a neighborhood association meeting. Mr. Winther will have you believe there was an extensive community outreach during their research but other than one meeting, he has not met with neighbors over the last 17 years and he has made no attempt to talk to him as a homeowner. He noted the strip of land runs right next to his bedroom. It infuriates him that something like this might happen, said they have access from Cambridge which was provided for at the time the agreement was made, and it does not appear there has been a reasonable effort on Quail Ridge which would be the most logical way. Therefore, all neighbors firmly believe there is no access from Palo Alto Drive because of the contract, many feel very passionate about it, they are all concerned and as a group of neighbors they are appealing to the Council to be their voice and be their representative to enforce the contract that was entered into between the City and Mr. Busby.

Mayor Anderson said Council action is to receive and file, and there will most likely be further Closed Session discussion on the matter.

ACTION: It was M/S/C (Tatzin/Andersson) to receive and file and schedule the item under a future Closed Session. Vote: 4-0-1 (Ayes: Anderson, Tantzin, Andersson, Federighi; Noes: None; Absent: Anduri).

B. Niroop Srivatsa, Planning & Building Services Manager

1. Resolution 2007-047 adopting guidelines for conducting joint City Council, Planning Commission, and Design Review Commission pre-application meetings

Recommendation: Adopt Resolution 2007-047.

Planning and Building Services Manager Niroop Srivatsa said the Council last considered the matter in November and at the request of the Lafayette Homeowners Council (LHC) continued it to provide an opportunity to review the draft meeting rules. The LHC provided a letter asking for a few changes to the draft rules and staff has commented on this letter. Mayor Anderson confirmed the letter was dated January 17, 2008.

Ms. Srivatsa reviewed comments from the letter:

2. The word, "public" should be added to the type of meeting that the joint meeting will be, and staff agrees with this;

3. This deals with when this meeting should be scheduled. The recommendation of LHC is that the section talks about a proposed development being located outside the redevelopment project area, but one that may require a General Plan Amendment, a specific plan amendment and/or a zoning change be deleted in its entirety. Staff did not recommend that this be deleted as the Lafayette Park Terrace application is a project that lay outside the Redevelopment Agency. The Council held a joint meeting and lent some direction, which was important. Therefore, staff recommends that section not be deleted;

4. It is recommended that staff defines "other features" and define what "high community value" is. Staff can attempt to do this, but it ultimately is at the discretion of the Mayor, City Council and City Manager, but they would attempt to define this;

5. Rather than have only the Mayor or City Manager make a determination that a joint meeting be held, the entire Council should be given the opportunity to make that decision. Staff is open to this and can bring an item to the Council on the Consent Calendar to inform the Council there is a joint meeting being requested;

6. The LHC requests additional materials be requested by the applicant during the pre-application meeting which includes orientation of the project, service areas, landscaping, drainage, noise, traffic, and environmental requirements. Staff does not recommend that this be added, as this is a pre-application meeting and the applicant does not always have all of this information. Staff also does not want to turn this into an application prior to a formal one being filed. The purpose is only to lend general direction;

7. The LHC recommends staff re-draft the paragraph to emphasize that the direction provided to the applicant is general direction only and staff will make sure this point is made;

8. Regarding who should be notified of the meeting, the LHC recommends staff notify people within 300 feet, and additionally to the LHC, the Chambers of Commerce, and any interested parties. Staff can do this and does it on occasion for study sessions that go to the DRC;

9. Regarding how the meeting should be run, it is suggested that the public be encouraged to participate. Staff agrees with this and will make an addition to that section to add that there will be opportunity for public comment. Staff also agrees that general direction must be emphasized again.

PUBLIC COMMENTS:

LYNN HIDEN said the LHC asks that the Council remove the applicability of such meetings when an application is soon to be pending in a non-redevelopment area. She sees no need for it to happen in single family residential areas and would rather the application go through normal process. Secondly, she asked to ensure public noticing in accordance with regular city-noticed hearing procedures. To date, such meetings have been narrowly noticed and without solicitation from resident input. She said there appears to be situations where there have been efforts to intimidate neighborhoods by telling them that staff liked the project and said it would pass, or that it was a slam dunk. All of them have been called with reports like this and to them this is what developers are telling the populous. She said if the pre-application meetings include proper noticing, residents will see the applications are non-binding, without promises, and residents can provide valuable input, and she thought this could make a big difference in the outcome.

Councilmember Andersson said Ms. Hiden makes the distinction between potential applications that may be in the redevelopment area versus outside of the redevelopment area, but he her real distinction was between the single family areas and other areas, and Ms. Hiden agreed. He therefore asked to limit it not to the redevelopment area but to non-single family zoned areas.

Ms. Hiden said as far as she could determine, the best thing would be to remove single family residential and just let it go through the process. There may be details to work out preliminarily in the redevelopment area, but she does not feel this is necessary for the single family residential areas.

GUY ATWOOD said it appears staff has said they are open to 6 of the 8 items, and the only 2 items they seem to be opposed to would be the wording in item 5 and 2 of their letter. He said Item 5 might be resolved by making those words as part of materials that could be requested by the City if it applies. He said the wording came from one of the Planning Commissioners and he thought it might make sense to provide this type of information if it is appropriate. Regarding item 2, he thought this was the most significant item. Staff used the Lafayette Park Terrace example which he thought is the worst example because it is one where the applicant came in, steamrolled the Planning Commission, and he thought this is the sort of thing they do not want to see. In situations where people go into single family residential areas and try to rezone them in certain ways where they have a significant impact, once the City enters into discussions with the applicant regarding development conditions and other things, applicants feel the City is in support of something like that. So, unless the City has a vested interest like the RDA or public buildings and/or large open space, then he thinks it does not make sense to go

in and pre-empt the whole planning process. He encouraged the Council to eliminate the single family residential area from this and said the RDA basically does this as being the commercial area.

Councilmember Andersson confirmed that Mr. Atwood's concern is that it not apply to the single family residential areas.

GEORGE BURTT said he came to support the LHC and also the Acalanes Homeowners Association, and asked that public participation occur from residential neighborhoods.

Mayor Anderson requested Ms. Srivatsa address Item 5, and said he got the sense that adding words that would simply indicate some of these other analyses could or may be required would be satisfactory, and he asked if this would work for staff.

Ms. Srivatsa said it would, but she cautioned that the meeting is a pre-application meeting. The more it starts to look like a formal application, the more staff runs into noticing and other legal issues. The developer is presenting a concept and staff needs enough materials so the concept is apparent and can be critiqued, and anything more would start to look like an application. She said staff would need to follow certain noticing standards and statutory deadlines, staff would formally deem an application complete and if staff accepts materials and call it an application, they start to run into CEQA deadlines and other statutory deadlines and the application might be wholly inadequate at that point. She stressed the need for a distinction between pre-application submittals and what is formally required during an application.

Vice Mayor Tatzin questioned whether or not concerns would be triggered if the Council puts in something that says the developer may choose to provide other information that would provide a more thorough view of the project. Ms. Srivatsa said no, it would not, but it should be at the developer's option.

Councilmember Federighi said she disagrees and believes additional materials as requested by the City would allow some flexibility in terms of what the project is all about before a joint meeting is held. Vice Mayor Tatzin suggested putting in some of the other ideas under as, "can be presented" and Councilmember Federighi agreed with this.

Ms. Srivatsa said in trying to separate an application from a pre-application, she would not list all of the items; just add, "additional data that might further clarify the concept may be provided by the developer'.

Mayor Anderson referred to Item 2 in the LHC letter. His sense is that the Council is talking about not having a pre-application process in the single family residential zoning areas, and he asked if staff had an issue with this. Ms. Srivatsa said staff does not see an issue with that, but she suggested that with the Lafayette Park Terrace example, that property is zoned SFR and the applicant wanted to rezone it for a higher density. It therefore came to the Council for a pre-application meeting. If pre-applications are eliminated in the single family zoning district, the City would be eliminating that opportunity.

Councilmember Federighi referred to Item 4 and said the LHC wants the City to further define "other features" and "high community value" but she was not sure this was necessary. She said the main point she definitely agrees with is that it is important for

the public to have an opportunity to weigh in; that the public might see something that really bothers them and where they will be affected.

Mayor Anderson said what he is hearing is that the Council can give direction to staff to have the item continued and return; that the Council would like wording that reflects the concerns from LHC letter for Items 1, 4, 5, 6, 7 and 8 incorporated into the language; and that the Council was amenable to exempting the single family residential zoning from the pre-application process.

ACTION: It was M/S/C (Tatzin/Andersson) to continue the item to February 25, 2008; direct staff to make revisions by taking the current exhibit and amending it with LHC comments; to modify Item 2 to not allow the pre-application process for single family residential; for Item 3 to not to be further defined, and to address Items 4-8 of the LHC letter per the discussion by staff. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

Convene Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Andersson) to convene the Redevelopment Agency. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

2. **Recommendation of the Senior Housing Task Force for the City to apply for a State HELP loan for the purpose of supplementing the funds to purchase a site for the senior housing project. Consider acquisition of the adjacent site in order to build a mixed use project. APN's 233-040-024, 233-040-038 and 233-040-039**
   Recommendation: 1. Receive update from Eden Housing and direct staff to work with Eden Housing, Inc. to apply for a HELP loan from the State to purchase a site. 2. Consider the acquisition of the adjacent site and work in partnership with Eden to build a mixed use project.

Ms. Srivatsa introduced Diana Elrod, the City's Housing consultant, Linda Mandolini and Woody Karp from Eden Housing, and members of the Senior Housing Task Force.

She said the Task Force spent the last two years educating themselves about senior housing, choosing a senior housing developer to build a project in Lafayette and now working with Eden Housing to secure a site. Eden Housing is at a point where it is negotiating with two adjacent property owners to acquire one of the two parcels on which to build a project. A joint meeting was held with the Planning Commission and the DRC to look at schematics of the Conti site. Negotiations are still underway and Woody Karp and Linda Mandolini will provide an update.

She said staff's purpose in the matter is 1) to let the Council know where Eden Housing stands in its negotiations; 2) if Eden Housing were to proceed, it would need additional financial assistance from the Agency and staff has provided options to finance the gap; and 3) at the joint meeting, the Council had discussed the possibility of having both parcels considered for one, a larger project and two, for a mixed use project wherein the City would undertake a lot line adjustment, have commercial development in the front and senior housing in the rear. The staff report outlines the pro's and con's of that option and she asked to hear from Eden Housing first.

WOODY KARP, Eden Housing, said regarding the issue of negotiations for the two potential sites, at the last Senior Housing Task Force meeting they presented viable projects for either the Conti site or the site owned by the neighboring property owner; Phillip Lemos. The Task Force indicated they did not have a particular preference and the direction was to proceed with whichever site they were able to negotiate a deal with first. They have continued negotiations with both owners and he is at a point where he is comfortable he has an executable contract with Mr. Lemos, but not with the Conti's. There are some business points they have gone back and forth on with the Conti's, he said he was not of the opinion they are insurmountable, but they have not been able to come to terms.

Mr. Karp said there is an issue with the Lemos site in that they would need guidance from the City on in order to pursue it. The site currently allows for a maximum density with the density bonus of 38 units. In order for the project to be viable, they would need 45 units. They envisioned originally 48 units when the project was presented to the Senior Housing Task Force, and the direction they would like from the Council or staff is of the likelihood of getting the bonus density in order to make the site viable. They would like the Council to acknowledge the fact that they are maintaining the height limitation so the building would not require a variance of any kind. Also important is that over the past year, they have been looking at approximately 10 different properties within the area that the City would like to a senior housing project proceed, and of the viable properties, only two had more than an acre of land that would have allowed a viable project with the density. So, for at least 6 of the sites looked at, they would have been confronted with this issue which is similar to the Lemos site, and the City would have to evaluate the merit of allowing an increased density.

Agencymember Federighi asked Mr. Karp to elaborate more on what would be necessary to get the 45 units on the Lemos property, and Mr. Karp said the project presented to the Senior Housing Task Force contemplated they would be able to generate 48 units on the site within the height limitation. It would have 3 stories on the frontage of Mt Diablo and the rear would be a podium with parking at grade level and two stories of residential above it. The entire project would remain within the 35 foot height limitation.

DIANA ELROD, Elrod & Associates, said the density issue is a problem on all sites because senior housing projects are typically smaller. So even though the building envelope is small, you would get more units. Councilmember Federighi said the staff report said even with podium parking, the maximum number of units is 38. Mr. Karp said they could get 48 units with podium parking. Staff was trying to articulate in the report that under the current zoning, they are entitled to 35 units per acre. The Lemos site is .8 acres, so the allowable zoning for the site would be 28 units if there were no other zoning allowances or density bonuses. There is a density bonus of 35% allowed for projects of low income, which would bring them to the 38 units that staff was referencing. It is a matter of what they would be entitled to under the current density bonus. Councilmember Federighi confirmed the project would therefore exceed the 35 units per acre and not the height limit.

Chair Anderson said the Council just held a discussion about the pre-application process which is appropriate. He knows Eden Housing is interested in moving this, but he thought the Agency could not act now and make any guarantees about the situation, as

the Council may need to refer it to the pre-application process where people can hear it. He questioned if there was something else that could be done. Ms. Srivatsa said Mr. Karp is looking for some comments from the Agency. She confirmed the average size of an apartment was 580-650 square feet and, therefore, Eden was talking about an additional 7 units at about 600 square feet. She said the Mr. Lemos is a property owner willing to negotiate, Mr. Lemos is present, and the hesitation on Eden's part is whether to proceed with the challenge of running into an additional density bonus.

Chair Anderson restated that the Agency cannot give any guarantees until we have a pre-application process where we could gather feedback and allow Eden Housing to go forward on that basis.

Agencymember Federighi said Eden Housing was running up against strict deadlines for funding purposes. She acknowledged that the entire community has not been part of the project but the Senior Housing Task Force has been dealing with this for several years and sites are dwindling. Mr. Karp agreed and said they have to have a project under contract, a sufficient plan they can submit, a HUD application on June 7 and they are right at the deadline needing to execute a contract to do necessary due diligence on the site to determine if the project is viable. This would include an environmental assessment, an analysis of the zoning issues, density issues, and during this period, they could resolve this issue before the deposit money becomes non-refundable and move forward as long as everyone, including the seller, understands that this is a very significant issue that must be resolved in order to be able to develop the project.

Agencymember Federighi said the Task Force hoped that a project could be presented that would not require any density bonuses, the Conti property would not require additional density bonuses and they are not at a point of negotiation with them. Mr. Karp said the Conti property is 1.35 acres, which includes Blackwood Lane. As long as the property includes that and staff considers the entire site, there would be no density issue. If it was evaluated that density bonus was based only on the buildable site, the density issue would then become an issue.

Vice Chair Tatzin said he understands that the Agency over time could allow such an increased density through a General Plan Amendment and he confirmed with Ms. Elrod there were other ways of accomplishing this. Ms. Elrod referred to page 6 of 8 of the staff report, options are presented. Based on other housing professionals she has spoken with, there are three things that could occur; 1) the Agency can just decide it would grant a greater density to this project or a senior project as an additional density bonus beyond what the State already mandates. She noted many cities do this already. Technically, this is not a General Plan Amendment because it is not changing the underlying zoning but simply granting a bonus in addition to what is required by the State. However, the Agency decided some time ago it did not want to adopt a formal density bonus ordinance. So, something would have to happen to revisit this or make a policy statement where the Agency establishes this as the direction for the Agency; 2) The City can grant waivers and concessions if a developer asks for it. One could argue that a density bonus is an additional waiver, but there is a question about it being non-sensical; 3) The General Plan Amendment would be a senior housing overlay. If a project comes in, it would get more than what the underlying density is. She agreed that a General Plan Amendment would be time-consuming.

Agencymember Andersson confirmed that the density allowed on the site is based on multi-family housing and noted there was a suggestion that senior housing is defined with smaller units, less parking, etc. So, a larger number of senior units would be similar to smaller project.

Chair Anderson asked how the Lemos site fits in terms of scenarios laid out in the staff report. He confirmed with Mr. Karp that because of the podium parking structure for the Lemos site, both sites would essentially add the same cost which would have been saved in the acquisition. Chair Anderson confirmed the Agency could use the matrix in terms of cost. He referred to the HELP loan and asked if it was independent of the contract. Ms. Elrod said the loan is just for acquisition and not for construction. Mr. Karp said conceptually, there would be no problem for using the HELP funds for acquisition and other funding from the Agency toward construction costs and did not see this as an obstacle.

LINDA MANDOLINI, Executive Director, Eden Housing, said she thinks the bigger decision point is for the Agency to approve the HELP loan because they need it for acquisition as soon as possible, and she noted they do not spend it until they have a site under agreement that makes the most sense. Also important to decide is that in the joint meeting with all commissions Agencymember Tatzin raised the notion of acquiring both sites and whether they would want to pursue that kind of an acquisition. She agreed with the earlier comment that they have not studied Lemos completely by itself, they had one meeting about it, but there is a question of how long the process would be if they were to try and accomplish 48 units on the site and could they actually achieve a General Plan Amendment or whatever they needed. She thought they were hearing different viewpoints and her question of the Agency is whether to apply for the HELP loan or other financing and then for the Agency to make a decision about whether or not it would like them to consider acquiring both sites.

Agencymember Federighi said she got the impression from Ms. Elrod and Mr. Karp that there was no time to try to acquire both sites, particularly as the staff report is outlining here. Ms. Mandolini said if the Agency wants to go to HUD this year, it would be challenging to acquire both sites unless they were both under extremely clear site control. She thought too much time would be lost and most likely would have to go next year to HUD. She agreed County funding may be lost as well.

Chair Anderson asked if the Agency has an option of looking at the two sites, and Ms. Mandolini said yes; if we could acquire them both by June, and based on what the staff report states, the question is whether or not there is enough gap funding to acquire both sites.

Chair Anderson said he has a sense the Agency does not have the money and Eden does not have the time. Ms. Srivatsa said the staff report gives the option of bonding against future revenues or loaning Redevelopment Agency funds if the City wishes to have both properties as part of the project, and the Agency would get involved. She said pages 7 and 8 of the staff report talk about ways to fund the acquisition of the other parcel. Having said this, staff is looking at it as Agency staff that a mixed use development of a 2-acre site would be beneficial for that part of the downtown and a better project. She said Eden Housing is facing immediate deadlines. In addition to the June deadline, they are meeting with the County to discuss the $3 million grant application in February and they need to let the County know they have a site in place

and can proceed. The Agency's involvement and the possibility of a larger, undefined project may cause the County to defer giving Eden a loan until the following year, so it is a balancing of the two.

Agencymember Federighi said another question of concern is that the City has money in its parking fund and the City offices fund, but by tying that money up and then bonding for it, she questioned if we weren't ultimately obligating greater RDA funds in the future. She said they do not get new RDA funds until 2011.

Administrative Services Director Tracy Robinson said these were housing set-aside funds which is different than the general RDA funds. The City has the capacity now to bond for about $6-7 million, but whether we can get a bond done is the question. She said they talked about a loan from those two other funds and then bonding at the same time we are planning to go out for a library bond next Fall.

Executive Director Steve Falk said staff has been tracking the transactions in the downtown over the last year. Each transaction changes and boosts the assessed value of the RDA and those higher assessments are recorded with the August tax rolls. Hence, the recommendation is that if the Agency wanted to pursue this path, that we issue a bridge loan from the General Fund to the RDA until the fall when we would have a higher tax base to issue a bond.

Vice Chair Tatzin questioned and confirmed that no one has done any conceptual work to see how that might work out and what a mixed use development might look like. He said if tonight is the night the Agency must act, he did not think it was prudent to consider both sites. He felt there were too many unknowns to be spending $3-5 million for both of the properties. He thinks conceptually it results in better planning, the Agency does not have the information in front of us that a rational decision-maker would want to have, and he would support dropping the idea.

Chair Anderson said he would like to explore it more. He said if the Agency is going to do something this year and hold all the dollars that we have gathered, we need to act quickly. However, he would like to know the possibilities of delaying the process, going out to try and acquire the other property with some option and then come back with a bigger project. Ms. Mandolini said the real risk is when they meet with the County, as they are entertaining a $3 million CDBG loan to acquire one of the two parcels, and they have not put the notion of acquiring two parcels. If we do not get the two parcels this year, the money goes back to HUD.

Mr. Karp said they are scheduled to meet with the County to discuss the $3 million funding and that is the lion's share of funds available. They presented what they believe is a strong application and for us to go back and revamp it as a completely different project would most likely undermine the application and risk the entire funding amount.

Ms. Srivatsa said a lot of information has been presented tonight. She wanted to separate the most critical issue being to have the Agency direct staff to work with Eden to apply for the HELP loan from the State, which needs to be done right away.

Regarding the issue of whether to buy one or two parcels, she suggested the Agency not drop the idea altogether tonight, but research it more with Eden Housing and return to the Agency at the next meeting. If there is an outside chance to do both projects, it

would be of interest to the Agency and to the City. And lastly, the Agency should provide some preliminary direction to Eden Housing to proceed in making an offer on one of the two properties.

Vice Chair Tatzin referred to the HELP loan and confirmed there was no downside to the City from proceeding other than staff time.

Vice Chair Tatzin referred to the two properties and acknowledged that negotiations started with Conti first and that they have been able to come to an agreement.

Agencymember Andersson said if the Agency approves the HELP loan and Eden Housing moves ahead with the one parcel approach, there is some window in which that process is proceeding. If it turns out possible to acquire both parcels, at that point, he questioned if a revised project could be proposed without jeopardizing the original project. Mr. Karp said he thinks this is something they would investigate doing. He would want to do it where he is upfront with the County with such a modification for them to entertain. He said Eden will meet with the County for an application interview on February 8, 2008. At that point, County staff will make a recommendation to the County Board of Supervisors as to which project or projects they would like to fund. They will make their decision in the middle of March and he believes that they would have to move very quickly after the interview to educate the County as to this alternative project so they provide an adequate staff report to the Board of Supervisors.

PUBLIC COMMENTS:

GUY ATWOOD said he appreciates what the Agency is going through, believed the pre-application process had already started with the prior meeting and the public has had notification of it. He thought the confusing thing for the community is if a mixed use project or two projects were proposed, which would require input by many people. He encouraged the Council moving forward on the grant, said the reason densities are in place are because of things like parking, traffic and impacts, and these types of projects do not have the same impacts. So if there were a situation to allow additional housing, he thought it would still be in conformance with meeting constraints. He supported looking at the density bonus matter with an open mind, if not favorably. He did not know how much more the Agency could do at this point. He thought a closed session would be warranted to discuss negotiations, but unless the Agency could get an option that would provide enough time to make a decision about both parcels, the Agency will need to proceed on one or the other. He said also, this still leaves the $1.4 million gap and he confirmed with Agencymember Andersson that this would come from the HELP loan.

Chair Anderson referred to the HELP loan and asked for Council feedback. Agencymember Federighi said she did not see a downside in applying for it.

ACTION: It was M/S/C (Federighi/Tatzin) to approve the City's application to the State for a HELP loan. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

Chair Anderson said there is still question on the density bonus issue. He said the Agency cannot guarantee anything, but it would be nice to provide the Agency with a little more security, and requested the City test the public comment pre-application process formally.

Agencymember Federighi asked if direction was needed as to whether or not to proceed with two projects or one projects, stating she is reluctant about pursuing two. She said Vice Chair Tatzin raised this issue at the joint meeting, some time has elapsed since then, the Conti property was always first on the list and there is nothing yet in place, the City is running against a deadline, are potentially jeopardizing $3 million worth of County money, a mixed use project is something the City has not discussed, senior affordable housing has been discussed for two years with the idea of possibly considering a mixed use project, sites have been too small to consider or improperly located, and she believes this would take further consideration and delay.

Agencymember Andersson said he was not clear about whether there isn't a way to pursue a two parcel solution project without jeopardizing it. He suggested indicating there is a one parcel solution the Agency and Eden were proceeding with, let the County know there is another possibility for which they may be open to if it could be put it together, he does not see this as necessarily jeopardizing a single parcel solution if it is done openly and straight-forwardly.

Vice Chair Tatzin said negotiations with Conti have been unsuccessful and time-consuming. He does not believe that going back will cause them to act any faster. Eden prefers the Lemos site and he supports this. If the Conti's are interested at some point, we can meet with them. But he did not think sending a signal to the County that we are interested in two parcels is productive, and Chair Anderson agreed; he felt the Agency needs to go in with a clean application to the County. If the Conti's are interested in the future, the Agency might begin to negotiate with them later on, but he agreed the Agency should move ahead with the Lemos site.

ACTION: It was M/S/C (Federighi/Tatzin) to recommend acquiring one site for the affordable senior housing project. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the Redevelopment Agency. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

9. STAFF REPORTS

A. John M. Luttropp, Associate Engineer
Presentation of Conceptual Plans for Mount Diablo Boulevard Pathway from the Lafayette Reservoir to Village Center
Recommendation: Forward the conceptual plans to EBMUD for the preparation of final plans for construction of a new multi-purpose pathway on the south side of Mount Diablo Boulevard from Village Center to the Reservoir entrance.

Associate Engineer Matt Luttropp said there have been several meetings regarding the configuration of the pathway from Village Center to the Reservoir on the south side of Mt. Diablo Boulevard. In the initial configuration, staff developed a plan that called for a 4-foot bike lane with a curb and a split rail fence separating the bike lane from a multi use pedestrian facility that would be 10 feet wide. Staff took that plan to the BPAC where the fence was removed from the plan and the bike lane was widened to 5 feet. This was

also taken to the Ad-Hoc CIP Review Committee and the City Council/Public Works Subcommittee where they agreed with BPAC's recommendation to widen the bike lane to 5 feet and eliminate the split rail fence from the plan.

The plans were then modified and taken to the Circulation Commission for comments. They suggested the bike lane be increased to 6 feet wide and the pathway be narrowed to 9 feet. He noted there is a narrow section on the pathway that in the pre-Circulation Commission configuration was 6.5 feet wide. If the bike lane is widened to 6 feet, the pedestrian facility will drop down to 5.5 feet for about a 150 foot section where the road goes over a creek crossing and a large oak tree near the reservoir entrance. He said staff is looking for direction from the Council as to a 5 or 6 foot bike lane configuration, and staff recommends going with the 5 foot wide bike lane.

Vice Mayor Tatzin said he knows the City Manager raised this topic with EBMUD about being an appropriate mitigation for the work and he thanked staff for pursuing this and getting EBMUD to agree that this is an appropriate mitigation measure.

Councilmember Andersson questioned if there is a standard bike lane. Mr. Luttropp said a typical bike lane depends on the configuration of the roadway. In this area, the minimum bike lane width is 4 feet wide, but preferred is 5 feet wide. He said the Circulation Commission's concern related to speeds of vehicles on Mt. Diablo Boulevard and they felt a 5 foot lane would not be wide enough to allow bikes a margin of safety for the cars that would be passing them in the area.

PUBLIC COMMENTS:

SCOTT HONEGGER, Chair of the Creeks Committee, requested the City Council not to take action on the item tonight and refer it back to City Engineering to circulate the matter to the Creeks Committee for comment, as they were never contacted. He said this particular stretch of Mt. Diablo Boulevard and the project is along one of the prime creek corridors in Lafayette, it is also what they have worked on as part of their proposed master plan for creek corridors in Lafayette, they held discussions on this creek section for over two years, had several site meetings, have their own thoughts about what would be most appropriate for reducing hardscape, providing for riparian habitat restoration, reducing encroachment toward the creek bank, and providing for a path which would meander and provide view sheds into the creek. He said he was contacted by another Creeks Committee member, he contacted Public Works staff, and asked to provide the committee a chance to comment on it. Secondly, he said this was truly one of the City's gateway corridors and should integrate what is happening with the Downtown Strategic Plan and study areas. It connects into the downtown core and would be great to have some planning and thought in terms of continuity as the path proceeds into the downtown core.

Vice Mayor Tatzin questioned staff if there was any impact of a delay and Mr. Luttropp said he did not know what EBMUD's timeframe was because they were going to be doing the design for the City. Initially, when staff started this process, EBMUD were very reluctant to have the design leave the existing edge of the paved portion of the road because they felt everything past that was riparian habitat and would require additional permitting from the Department of Fish and Game. If it is delayed for 60 days, it would not be built this summer anyway, it would most likely make it the following summer and it would most likely not hurt the process tremendously.

City Manager Falk said he does not believe EBMUD will work on the Mt. Diablo section of the road in summer 2008. He said he will have to speak with them about their plan for Mt. Diablo Boulevard in 2009. As you suggest, the idea is to have the pathway completed before they do their work on Mt. Diablo Boulevard because they will shift all traffic into the two southern-most lanes, hence the need for a protected walkway. If they do work in the summer of 2009, the City would like this project completed in the spring of 2009.

Mayor Anderson confirmed that the general sense is there would be no impact if the matter was reviewed by the Creeks Committee.

LYNN HIDEN supports the project going to the Creeks Committee, said the City is saving EBMUD a great deal of money by letting them tear up our streets and they should not worry about a delay in process; however, she graciously requested that the Creeks Committee not change the width of the bike lanes.

CAROL SINGER said she supported Chair Honegger's recommendation, thinks the matter had evolved with sole concern about bicycles, but Chair Honegger has come to the Park, Trails and Recreation Commission about cleaning out the creek area and plans for it. She felt it should be much more of a pedestrian corridor and should be part of the Downtown Strategic planning and she would like to see it as more of a pedestrian riparian place for an enjoyable walk and not just for bicycles. She said she could not see walking on the path with two small children and asked the Council to send it back to Creeks Committee for pedestrian orientation.

Vice Mayor Tatzin said he supported sending to the Creeks Committee with a plan that accommodates bikes, pedestrians, and does not require a lot of Fish and Game approvals. He noted that the City is doing an overlay on parts of Mt. Diablo and confirmed with the City Manager that this was not the area EBMUD would work on the following year.

Mr. Luttropp said there are a couple of groups interested in the project and as a matter of process, he asked what staff should be bringing back to Council. To avoid going into the riparian area, invariably, the pedestrian facility envisioned now is a 10-foot wide facility. If it is envisioned to be more meandering it will need to be significantly narrower to do this and he was not sure whether this would trigger BPAC or Circulation Commission wanting to hear it again. Vice Mayor Tatzin said the City wants a bike lane, we want to be able to walk with two small children, we do not want time-consuming permits and this will limit what can be done. Mayor Anderson said this will be something that the Creeks Committee can provide input on, but staff will be making the recommendation to the City Council.

ACTION: It was M/S/C (Tatzin/Federighi) to send the item to the Creeks Committee for no more than 60 days with a plan that accommodates bikes, pedestrians, and does not require a lot of Fish and Game approvals. Vote: 4-0-1 (Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

B. Jennifer Russell, Parks, Trails & Recreation Director
Purchase options for the property located at 3232 Deer Hill Road, owners Anne and Hunter Holding - APN 232-150-021

Recommendation: Discuss and direct staff.

Mayor Anderson said this item was deleted from the agenda; however, Hunter Holding is in the audience and has requested to speak.

ACTION: It was M/S/C (Tatzin/Andersson) to add 9B back on the agenda. Vote: 4-0-1 (Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

HUNTER HOLDING said he was not aware the item was taken off the agenda, updated the Council on recent developments, referred to the e-mail attached to the staff report and said they entered into a purchase agreement with another family who are delighted because the family will operate a non-profit educational home school co-op. They will continue some of the existing programs and possibly additional programs, they are now in the process of showing them what they do and seeing what they feel capable of doing, and they will have more details on programs in working through the process. He thanked staff and the Parks, Trails and Recreation Commission for taking an interest in this. Not only were they interested, but the City also stimulated a public response which was moving. He said the new owners are delightful, want to work with the City and staff, keep it as a community asset and they have exactly the same vision for Deer Hill Ranch.

Mayor Anderson said he appreciates Mr. Holding's efforts to keep this alive and he said it sounds like a dream come true.

C. Christine Sinnette, Senior Planner

1. **Introduction and first reading of Ordinance 570 to adopt Ordinance No. 2007-54 of the County of Contra Costa adopting the (1) 2007 California Building Code, (2) 2007 California Electrical Code, (3) 2007 California Plumbing Code, and (4) 2007 California Mechanical Code, with changes, additions and deletions.**
   Recommendation: Introduce Ordinance 570 and continue to February 11, 2008 for a public hearing.

Senior Planner Christine Sinnette said the California Building Standards Commission adopted and published the 2007 Building Standards Code which became effective statewide January 1st. Contra Costa County staff reviewed the statewide codes and recommended they be adopted by the Board of Supervisors with minimal technical changes in order to retain as much continuity statewide as possible.

Last November, the Board of Supervisors adopted Ordinance 2007-54 which adopted the State Code along with amendments based on local conditions. The City's Ordinance No. 570 is the direct adoption of the County ordinance and it would adopt the 2007 California Building, Electrical, Plumbing and Mechanical Codes. She said whenever the California Codes were updated in the past by the State, they were subsequently adopted by the County and then by the City. In adopting the updated codes, the City has merely re-adopted much of the local amendments made in the past. There are only a few minor updates to the current code that had not always been in the County codes that the City adopted.

In addition to the updated State and County codes, staff is also recommending the Council update some current language related to the City's surcharge on building permits. The current surcharge is 50%, but the Municipal Code has not been updated for

a number of years and still reflects an older surcharge percentage. Staff therefore is recommending that the Council waive the first reading and introduce the ordinance, and continue it to the meeting of February 11, 2008. Given the heavy agenda on February 11th, the ordinance would be continued to February 25th for the public hearing. Since the legal notice included a February 11th date, it will show up on that agenda, with a recommendation to continue to the February 25th meeting.

Vice Mayor Tatzin recognized that one of the areas where we differ from the County is from the gas shut-off devices and he questioned if they were referred to in the amendment. Ms. Sinnette said she did not believe it was because it is an entirely separate ordinance. Mayor Anderson noted it was Ordinance 564 which was listed under the Consent Calendar as Item 11B.

ACTION: It was M/S/C (Tatzin/Federighi) to waive first reading, Introduce Ordinance 570 and continue to February 11, 2008 for a public hearing. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

2. **Introduction and first reading of Ordinance 571 to adopt Ordinance No. 2007-47 of the County of Contra Costa adopting the California Fire code with amendments.**
   Recommendation: Introduce Ordinance 571 and continue to February 11, 2008 for a public hearing.

Senior Planner Christine Sinnette said the State also adopted new California Fire Codes which became effective state-wide on January 1st. The Fire District staff reviewed those state-wide codes and recommended to the Board of Supervisors that it also adopt the State codes along with some local amendments based on special conditions.

She said it is the City's intention to do a direct adoption of the County Ordinance 2007-47 along with local amendments, which includes adding some definitions to allow Contra Costa County to investigate special hazards related to weeds and other growth capable of being ignited, providing some additional design specifications for water supply and emergency vehicles, requiring automatic fire sprinklers in new buildings that exceed a maximum allowable floor area and additional provisions related to fire safety during construction and demolition

In reviewing the County ordinance, Ms. Sinnette said there is a discrepancy with the City's current fire safety ordinance related to detached one- and two-story dwellings. Staff recommends that if the County ordinance is adopted that Section 903.2.7 of the California Codes that address sprinklers in single family residences not be included and it would continue with the City's existing ordinance that requires sprinklers in single family homes under certain conditions. This section is outlined in the staff report. She said any new residential construction needs to have fire sprinklers unless there are formal criteria which would allow exemptions. She said staff would recommend waiving the first reading, introduce the ordinance and continue it to February 11th with final public hearing on February 25th.

Vice Mayor Tatzin referred to page 16 of the ordinance, Section 14-10.2, point 4 on page 17, stating that it talks about a minimum obstructed roadway width of 20 feet. He said at times the Council sometimes approve roads that are not 20 feet in width and he questioned what would happen in this instance. Ms. Sinnette said there are exceptions

for single family homes which can go down to 16 feet. Vice Mayor Tatzin said there are times where someone will rebuild a house on a residential parcel where the existing roadway is less than 16 feet wide and he questioned what the City does in this case. Ms. Sinnette said this was related to temporary basis, and he asked if one is not planning to do it on a permanent basis, how it is done on a temporary basis. Ms. Sinnette said the Fire District can, on occasion, allow for exceptions and they have. Vice Mayor Tatzin also pointed out Section 14.12.3 on page 18 that talks about temporary water supply, and he never recalled where the City required a temporary water supply.

Ms. Sinnette said many standards in the ordinance are already in place, and they would apply most to temporary construction. For any discretionary project, the Fire District would apply most of these standards particularly related to temporary construction. When the Planning Department processes a discretionary application, there are a number of conditions and most relate to roadway width, provision of water, maintaining a clean construction site which have always been applied locally; they just have not been codified. Vice Mayor Tatzin said historically, the Council has received letters from the Fire District requesting that we do specific things, but it is not a Code they can enforce; simply a request and the Council decides whether it can do it or not. This now becomes a code which they can enforce with no further comment from the Council, so he would like the Council to think that through before adopting it.

Mayor Anderson questioned if the ordinance even needed to be adopted since the Fire District would grant any discretion or exemptions. Vice Mayor Tatzin said there might be some discussion about how Fire would interpret this for reconstruction of a road approved 20 years ago, and said there were some roads that exceed 10%.

Councilmember Andersson referred to page 2; Automatic fire sprinkler systems for new residential construction. He said 15 years ago, he was involved in Orinda as a Planning Commissioner there in 1988 with the Fire Marshal posing a fire safety ordinance. One provision was to provide sprinklers in new residential construction which was met with shock and surprise from the Council and others. We set forth criteria for when there was a good reason for having sprinklers, based on the inability of a fire company to get there and fight a fire. We did b, c, and d that are on the list.

In Orinda, if you combine the homes that do not have a standard water supply, their nearest hydrant and homes that are not accessible, or homes that are far from fire stations, this amounts to 92% of the City. Therefore, all homes would require fire sprinklers. When he first moved to Orinda, 2 days later, he appeared before the City Council saying he was told by the Fire Marshal that Lafayette had found out about Orinda's ordinance and had taken the ordinance and was going to adopt it that night, which he encouraged they do. He said very recently, Moraga and Orinda have now gone to 100% new residential construction sprinkler requirement. In Lafayette, the criteria do not cover 92% of the City and it is a partial effect.

He believed there is really no good reason not to sprinkler all new buildings. The cost of the systems compared to the cost of fires is favorable, the loss of life is often rare, but it does occur and he proposed that with the exception in number 1 which deals with the amount of remodeling, to trigger this requirement. He proposed looking at making the requirement for all new construction, asked Ms. Sinnette to obtain Moraga and Orinda's ordinances, continue the item and obtain their rationale and additional information.

Mayor Anderson said to require sprinklers on all new residential construction is a big difference from what the City requires now and he would like to make sure people are aware of the proposal and comment on it. If the Council makes a change of this type, he confirmed staff should bring back the ordinance as a new ordinance, as it was not noticed for the requirement. Ms. Sinnette said her notice did include requiring automatic sprinkler systems for new buildings exceeding maximum floor area based on occupancy, but this is different than requiring 100% compliance.

Ms. Sinnette also noted that Orinda's ordinance states sprinklers should be installed in all new buildings regardless of square footage or type of construction; that any additions, alterations or remodels that exceed 50% or greater of the building, would require that the entire building be retrofitted; anything damaged by fire needed to be fully sprinklered. She said they also had an accumulative area increase, so regardless of the number of additions, if anything reached 6,200 square feet or more, everything needed to be sprinklered.

Mayor Anderson felt those changes would be positive and probably well-received by the public.

ACTION: It was M/S/C (Tatzin/Andersson) to continue the item to the March 10, 2008 meeting. Vote: 4-0-1 (Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

BREAK
Mayor Anderson called for a short break at 9:39 p.m. and the Council reconvened the regular meeting at 9:48 p.m.

10. PUBLIC HEARINGS

A. Niroop Srivatsa, Planning & Building Services Manager
GP01-06/RZ01-06CC: KO Architects (applicant), The Woodbury, LLC (owner),_P1 Zoning: Request for approval to amend the planned unit development t (1) reduce the project unit count from the approved eighty (80) units to a project of not less than sixty (60) units and (2) make minor changes to the building elevations. The site plan, building footprints and envelopes and landscaping plans will remain unchanged. Project Location: 3758 Mt. Diablo Blvd., APNs 241-010-024, 033, 034, 040.
Recommendation: Continue without consideration to February 11, 2008.

ACTION: It was M/S/C (Tatzin/Andersson) to continue the item to February 11, 2008. Vote: 4-0-1 (Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

11. CONSENT CALENDAR

Convene Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Federighi) to jointly convene the Redevelopment Agency. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

Vice Mayor Tatzin requested removal of Items 11F and 11G.

ACTION: It was M/S/C (Tatzin/Andersson) to approve the Consent Calendar consisting of Items A, B, C, D and E. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri)..

A. **January 14, 2008 City Council Minutes**
Recommendation: Approve.

B. **Ordinance 564 amending Chapter 3-9, Gas Shut-Off Devices**
Recommendation: Continue to February 25, 2008.

C. **Resolution 2008-03 approving State-Local Agency Agreement for Federal Aid Projects: Master Agreement No. 04-5404R**
Recommendation: Adopt Resolution 2008-03 approving the updated Administering Agency-State Master Agreement No. 04-5404.

D. **2007/08 Budget Adjustment – Community Center Rink Project**
Recommendation: Carry-over 2006/07 balance of $601,501.40 to the 2007/08 Budget.

E. **Code Enforcement Activity Report**
Recommendation: Receive and file.

Items Removed from the Consent Calendar:

F. **Temporary Parking Restrictions on Golden Gate Way**
Recommendation: 1. Adopt a temporary "No Parking" restriction for the remaining duration of the library construction project, to be effective between 6 a.m. and 8 a.m., weekdays, on the south side of Golden Gate Way between 3467 and Second Street. 2. Authorize staff to proceed with additional measures as presented to alleviate concerns regarding construction worker parking.

Vice Mayor Tatzin said he spoke with Bob Gray who wrote a letter and expressed his regrets for not staying. He pointed out that a statement from the City Engineer's report two weeks ago states that a provision of the contract states that the contractor shall not have construction employees park anywhere other than on the frontage of the project. His question was that, if there is already a provision in the contract that enforces people not to park elsewhere, why did the City need to propose other alternatives other than simply enforcing the contract.

MR. GRAY was not supportive of the recommendation for the "no parking" and asked staff to remind the contractor of the contractual provision.

Mayor Anderson said if the City has non-compliance with the contractor, there should be something that happens as a result. There is no indication something will be done other than reiterating our request to the contractor. But if there is no compliance, he felt something should be happening. He thought this should be the first action before we begin to restrict parking.

Councilmember Federighi questioned what the remedies were for non-compliance, and city Manager Falk said he would have to have the City Attorney check this; however, he said the contractor has many subcontractors who arrive at different times of the day. It is difficult for them and for staff to monitor who is with whom and who parks where. Secondly, staff has other issues going on with the Library project contractor that are very difficult to solve and honestly, the issue of parking on Golden Gate Way is at or near the bottom of the list. He did not believe it would be in the City's best interest to have a very serious, punitive conversation about parking on Golden Gate Way. Vice Mayor Tatzin felt it might be something to hold in the negotiating kit, and City Manager Falk agreed they could do this, however, he did not believe this was the leverage point the Agency needs.

Councilmember Andersson questioned whether or not without the "no parking' signs it would be difficult to indicate who is parking there, and City Manager Falk said yes; and many of the reasons the businesses do not want the "no parking" proposal between 6AM to 8AM is to allow their employees to park on the street at that time.

Councilmember Federighi said she spoke with Mr. Coe who indicated business owners were supportive of this; what they did not want is long-term parking. City Manager Falk said there are a couple of different businesses in the area which include an auto maintenance business, the Nut Factory and Coral pool. He said many Coral Pool employees arrive between 6AM and 8AM; they park their cars and take the company trucks out on business. In the instance of the auto-related businesses, many cars will arrive to be repaired, the business does not have parking and the street serves as their queuing area, but it is complex. The Nut Factory does not like anyone parking in their customer parking area either, staff has spent a lot of time observing the situation, there is a lot of movement of cars and people, subcontractors, and others. He agreed to continue to speak with the contractor, does not know how effective it will be, if they need to pull the idea of using the contract as leverage, staff can talk about this, but he was not sure how effective it would be.

Vice Mayor Tatzin suggested recommendation 1, return in a few months and see how it is going.

City Manager Falk also noted Councilmember Andersson noted at the last meeting that the issue would soon be resolved when the parking on-site becomes available in the garage and outdoor lot and did not believe staff could easily fix the problem. Mayorr Anderson said it was stated that workers need that space to mobilize and stage equipment, and Councilmember Andersson said there should soon be some spaces available but not necessarily all the time.

Mayor Anderson agreed that staff has met with contractors and business owners, there is a recommendation based upon feedback, it makes sense to follow it, but also there is a question of compliance with the specifications which should not be lost in the entire situation, as there is some obligation for them to address the problem however difficult to do.

ACTION: It was M/S/C (Tatzin/Federighi) to 1. Adopt a temporary "No Parking" restriction for the remaining duration of the library construction project, to be effective between 6 a.m. and 8 a.m., weekdays, on the south side of Golden Gate Way between 3467 and Second Street. 2. Authorize staff to proceed with additional

measures as presented to alleviate concerns regarding construction worker parking. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

G. Resolution R2008-01 directing staff to submit a Station Area Planning Program Grant Application
Recommendation: Adopt Resolution R2008-01.

Vice Chair Tatzin said in looking at what the key goals of the program are, he asked if someone else from the granting agency could come along and say they are not doing some things the program anticipated, such as providing housing around the BART station as opposed to one side of the BART station. He also referred to the top of page 2, it talks about the local match and 20% of the total project budget is acquired and previously allocated funds do not qualify. He questioned if we have enough money or if more money would need to be allocated to the project in order to have the 20% match.

He noted the application deadline is February 29, 2009, and the City did have a little time. Executive Director Falk said he would need more time to review and discuss this with staff, but if the grant comes back with constraints the Agency is not comfortable with, the Agency can choose not to accept the grant.

ACTION: It was M/S/C (Tatzin/Federighi) to continue the item to February 25, 2008; direct staff to prepare the grant application; return the application and resolution back to the Agency along with some additional information as to how the Agency would generate the match and whether the match is already part of what the Agency approved and therefore eligible; and determine whether or not there is control about what the plan looks like that may be consistent with the City's General Plan. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the Redevelopment Agency. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

12. COUNCIL/COMMISSION REPORTS

A. Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.

B. Mayor Mike Anderson
Update on Contra Costa County Solid Waste Authority Rates and Establishing the Franchise Fee.
Recommendation: Discuss and direct and consider revised franchise fee for Lafayette.

Mayor Anderson provided an update, said he believed the City could increase its franchise fees, but learned we do not have the proper findings for such an action. According to the City Attorney, we need to have something more definitive than a 4 year old study done on the issue. He said a meeting was held on January 17, 2008 where he represented the City. At the meeting there was a decision made to allow each city to set

its own rates independently and to carry its own reserve. It has been a complication of an understanding from the past; there were funds allocated to take care of overdrawn accounts on the parts of some cities. Some cities had surplus, there were hard feelings money had been used from Walnut Creek and the County to subsidize other cities that overspent or did not charge enough on their rates and their whole rate structure is very complicated.

He believed what had come out of the process is a better understanding about what the City is facing in terms of the future. He said Lafayette is in good shape in terms of its rates in place now. Going into the next rate year, the City could reduce its rates and still not have a problem with our reserve. However, this is not what is being recommended. Keeping the rates the same will allow the City to continue to build our reserve and over time, modest increases will apply. The reserve is important because each year there is a projection about cost, which is a guess. Therefore, rates are set based upon that guess, and in the end there is a clean-out process for justifying what each entity has budgeted based on the actual cost of solid waste pickup.

Mayor Anderson said there was also a proposal to try and settle the past difficulties with Walnut Creek and the County with their sense they had been subsidizing other agencies. In that process, a $4 million fund was taken, which was a fund set aside for the recycling center and given back to each of the member cities based on their contribution. $250,000 was given additionally to the County and Walnut Creek to settle past concerns about subsidy. If accepted, they would not be able to sue the Agency for any subsidies in the past. He noted that records are very spotty in terms of understanding where the subsidy occurred, but it was felt that money spent helped out some of the smaller cities.

Councilmember Federighi said this was the vote but she also knows that the City of Walnut Creek is not happy with the $250,000 at all and is returning to the meeting on Thursday and requesting a bigger cut. She also thought the County equally wants more money.

City Manager Falk said when the Solid Waste Authority was established, it was a doctrine that states the cities are all in this together, except Walnut Creek and the County found out they are subsidizing Orinda to a huge extent. Now, each City will be responsible for all inflow and outflow. Walnut Creek and the County are not happy because they are not getting enough for what they paid in the past and Orinda does not like going forward into the future. Mayor Anderson felt there will be more struggle, but he did not know what else could be done.

Councilmember Federighi asked whether or not the Solid Waste Authority would finance a study for Lafayette alone or would the City need to pay for it. She was not sure whether the cost of the study could be worth raising the franchise fees. Currently, the City's franchise fees are 10%; Orinda is the highest at 12%, and some are low at 7%. Mayor Anderson's proposal was to go to 15% and she said she was slightly uncomfortable with that. Mayor Anderson acknowledged her concern, did not disagree with it, and said the City does not have the findings to allow the City to increase the fees.

13. WRITTEN COMMUNICATIONS

A. **Letter dated December 17, 2007 from Sandra Jackson, Executive Director, Las Trampas, Inc. requesting a proclamation to recognizing the 50th anniversary of Las Trampas Inc.**
Recommendation: Discuss and direct.

ACTION: It was M/S/C (Tatzin/Andersson) to approve a proclamation to recognize the 50th anniversary of Las Trampas Inc. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

B. **Letter dated January 8, 2008 from Jay Lifson, Executive Director of the Lafayette Chamber of Commerce, requesting permission to use Lafayette Plaza from 4:00 pm to 9:30 pm on Tuesday, May 20th for the fifth annual Taste of Lafayette.**
Recommendation: Discuss and direct staff.

C. **Letter dated January 8, 2008 from Jay Lifson, Executive Director of the Lafayette Chamber of Commerce, requesting permission to use Lafayette Plaza from 6:30 pm to 8:30 pm on Fridays, August 1, 8, 15, 22 for Rock the Plaza!**
Recommendation: Discuss and direct staff.

D. **Letter dated January 8, 2008 from Jay Lifson, Executive Director of the Lafayette Chamber of Commerce, requesting closure of Mt. Diablo Blvd. in both directions from Oak Hill Road to Dewing Avenue, Lafayette Circle east from Mt. Diablo Blvd. to just beyond Chow's from 6:00 pm on Friday, September 19th until 10:00 pm Sunday, September 21st. permission to hang banners on the median light poles, a variance to the sign ordinance for 3 additional banners, city assistance in publicizing the event through Vistas and the Community Center newsletter and the continued cooperation of the police and public works departments.**
Recommendation: Discuss and direct staff.

E. **Letter dated January 8, 2008 from Jay Lifson, Executive Director of the Lafayette Chamber of Commerce, requesting closure of Mt. Diablo Blvd. from First Street to El Nido Ranch Road from 7:00 am to 10:30 am on Sunday, October 26th leaving one lane open at all times for emergency vehicle access, permission to hang banners on the median light poles from September 22 through October 27th, city assistance in publicizing the event through Vistas and the Community Center newsletter and the continued cooperation of the police and public works departments.**
Recommendation: Discuss and direct staff.

ACTION: It was M/S/C (Tatzin/Federighi) to approve Items 13 B, C, D and E simultaneously. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

JAY LIFSON thanked the City Council for their support.

14. ADJOURNMENT

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the meeting at 10:13 p.m. to the next regular meeting on February 11, 2008. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Andersson, Federighi; Noes: None; Absent: Anduri).

APPROVED:

_____
Mike Anderson, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk